



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, बीरवार, 24 मई, 1979/3 ज्येष्ठ, 1901

हिमाचल प्रदेश सरकार

NIRVACHAN VIBHAG
NOTIFICATION

Simla-171002, the 8th May, 1979

No. 7-9/78-Elec.—In exercise of the powers conferred by section 163 of the Himachal Pradesh Panchayati Raj Act, 1968 (Act No. 19 of 1970), the Governor, Himachal Pradesh, proposes to make the following draft rules entitled as the Himachal Pradesh Panchayat Samiti (Primary Members from Co-operative Societies) (Election) Rules, 1979 and the same as are required under sub-section (2) of said Section 163 are hereby published in the Official Gazette for the information of the general public and a notice is hereby given that these draft rules will be taken into consideration after 15 days from the date of their publication in the gazette.

If any person affected thereby desires to take any objection or has any suggestion to make, regarding these draft rules, he can send the same to the Secretary to the Government of Himachal Pradesh, Election Department, before the expiry of the above period. The objections or suggestions, if any, received, will be taken into consideration before finalizing these draft rules.

DRAFT RULES

PART I

1. *Short title and commencement.*—(1) These Rules may be called the Himachal Pradesh Panchayat Samiti (Primary Members from Co-operative Societies) (Election) Rules, 1979.

(2) They shall come into force at once.

2. *Definitions.*—(1) In these rules, unless the context otherwise requires,—

- (a) 'Act' means the Himachal Pradesh Panchayati Raj Act, 1968 (19 of 1970);
- (b) 'Assistant Registrar' or 'Registrar' means the Assistant Registrar or Registrar, Co-operative Societies, as the case may be;
- (c) 'form' means a form appended to these rules;
- (d) 'society' means a Primary Co-operative Society.

(2) The words and expressions used but not defined in these rules shall have the meanings respectively assigned to them in the Act.

PART II

3. *Preparation of election programme and list of Co-operative Societies.*—(1) As soon as the Notification to constitute Panchayat Samiti in a district, under section 61(1) of the Himachal Pradesh Panchayati Raj Act, 1968 is issued, the Assistant Registrar of the District shall—

- (i) draw up election programme in Form I for the election of two representatives of co-operative societies, within the jurisdiction of every Panchayat Samiti to be constituted in the district;
- (ii) Prepare a list of primary co-operative societies within the jurisdiction of every Panchayat Samiti to be constituted in the district;
- (iii) publish the list of co-operative societies prepared under clause (ii) by posting its copies at conspicuous places at the office of—
 - (a) Deputy Commissioner;
 - (b) Sub-Divisional Officer (Civil);
 - (c) Tehsildar;
 - (d) Block Development Officer; and
 - (e) such other places as he may deem fit.

(2) Include a co-operative society, not included in the list, in the list published under clause (iii), if any member of Primary Co-operative Society which is not included in the list has applied to the Assistant Registrar, not later than twenty days prior to the date fixed for filing of nomination papers, to include such Primary Co-operative Society in the list and the Assistant Registrar, has satisfied himself about the validity of the application.

(3) The Assistant Registrar may by an order wherever it is expedient to do so, amend, vary or modify the election programme drawn up under sub-rule (1) at any time:

Provided that unless the Government directs otherwise no such order shall invalidate any proceedings already taken before the date of such an order.

4. *Notice of election to be sent to Chairman or President of the Primary Co-operative Society.*—(1) The Assistant Registrar shall then send a copy each of the programme and final list mentioned in rule 3 to the President or the Chairman, as the case may be, of every Primary Co-operative Society in the Panchayat Samiti along with a Notice in Form II calling upon the President or the Chairman of each society to—

- (a) convene within twenty days of the issue of the notice, a meeting of the general body of Members to elect one representative of the Society for the election of two members to the Panchayat Samiti under section 63 (1) (ii) of the Himachal Pradesh Panchayati Raj Act, 1968, in the manner in which the Members of the Managing Committee of that society are elected;
- (b) send the name of the representative thus elected to the Assistant Registrar on the day the election is held;
- (c) direct the Society's representative to present himself with a copy of society's resolution authorising him to represent it, before the Returning Officer at the time, date and place specified in the programme in Form I for the election of two members to represent Primary Co-operative Societies within the Samiti's jurisdiction:

Provided that the programme shall be drawn up by the Assistant Registrar in such a manner that the election is completed within 30 days of the date of the issue of the notice in Form II.

(2) When a meeting is convened by the Chairman or the President, as the case may be, of the Society he shall, before the election of the representative of the Society is held, announce to the members the election programme received from the Assistant Registrar under rule 3.

(3) If the Chairman or the President, as the case may be, fails to convene a meeting of the general body, or having convened a meeting the members fail to elect a representative of the Society, as required by clause (a) of sub-rule (1), the Society shall be deemed to have forfeited the right of electing its representative.

(4) The Assistant Registrar shall, for each Panchayat Samiti in his district, prepare a separate list of the names of representatives of the Primary Co-operative Societies in that Panchayat Samiti received by him under clause (b) of sub-rule (1). He shall post a copy of this list out-side his office and shall also send a copy thereof to each Returning Officer.

5. *Appointment of Returning Officer.*—The Assistant Registrar shall appoint in writing a Returning Officer who shall not be below the rank of a gazetted officer, to conduct the election.

6. *Filing of nomination papers and depositing of securities.*—(1) Any person who is a member of a Primary Co-operative Society within the jurisdiction of the Panchayat Samiti, may be nominated as a candidate for the election of two members to the Panchayat Samitis, provided he delivers in person, or sends through his proposer or seconder, a nomination paper completed in all respects on the date, time and place specified in the election programme.

(2) The nomination of each candidate shall be made on a separate nomination paper in Form III and must be subscribed by the candidate himself as assenting to the nomination, and by two such persons as proposer and seconder who are members of that Society.

(3) The nomination paper of a member of the Scheduled Castes or Scheduled Tribes shall also be accompanied by a declaration duly verified by a member of Parliament or the State legislature, Tehsildar or a Magistrate, that the candidate is a member of the Scheduled Castes and Scheduled Tribes specifying the particular caste or tribe to which the candidate belongs.

(4) Each candidate filing a nomination paper under the above provision shall, at or before the time of delivery of his nomination paper, deposit, or cause to be deposited a sum of one hundred rupees and in the case of a Scheduled Castes or Scheduled Tribes candidate, a sum of fifty rupees in cash with the Returning Officer, and no candidate shall be deemed to be duly nominated unless such deposit has been made.

(5) If a candidate by whom or on whose behalf the deposit referred to in

sub-rule (4) has been made is not elected and the number of votes, polled by him is less than one-sixth of the total valid votes polled, the deposit shall be forfeited to the Government.

(6) (a) The deposits in the cases—

(i) where the nomination paper of the candidate has been rejected;

(ii) where the candidate has withdrawn his nomination paper within the specified time; or

(iii) where the candidate had died before the commencement of the poll;

shall by an order in writing of the Returning Officer, be returned at any time after such rejection or withdrawal of the nomination paper or the death of the candidate as the case may be, to the candidate or, if not made by him to the person by whom it was made or where the candidate has died, to his legal representatives.

(b) The deposit in the cases—

(i) where the candidate, though not elected, does not forfeit his deposit under sub-rule (5); or

(ii) where the candidate is elected; shall be returned to the candidate or if not made by him to the person by whom it was made, after the declaration of the result of the election.

7. *Scrutiny of nomination papers.*—(1) At the time appointed for the scrutiny of nominations, the candidate, his proposer and seconder may attend such place as may be specified in the election programme for the scrutiny of nomination papers and the Returning Officer shall give such persons all reasonable facilities to examine the nomination papers of all the candidates.

(2) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made at the time to any nomination by any candidate or his proposer or seconder and may, either on such objections, or on his own motion and after such summary enquiry, if any, as he may deem necessary, reject any nomination:

Provided that the nomination of a candidate shall be rejected, if—

(a) he suffers from any disqualification mentioned in section 64 of the Himachal Pradesh Panchayati Raj Act, 1968;

(b) if the candidate, his proposer and seconder are not the members of the same Primary Co-operative Society:

Provided further that the nomination of a candidate shall not be rejected merely on the ground of an incorrect description of his name or of the name of his proposer or seconder, or of any other particulars if the identity of the candidate, proposer or seconder, as the case may be, can otherwise be established beyond reasonable doubt.

8. *Withdrawal of nomination papers.*—(1) Any candidate may withdraw his nomination by a notice in writing, which shall be subscribed by him and delivered either in person or through his proposer or seconder who has been authorised in this behalf in writing by such candidate to the Returning Officer before the expiry of the time allowed for the withdrawal of nomination papers.

(2) No person, who has given a notice of withdrawal under sub-rule (1), shall be allowed to cancel the withdrawal or be re-nominated as candidate for the same election.

9. *Allotment of symbols to candidates.*—The Returning Officer shall, on the expiry of the time fixed for the withdrawal of nomination papers, allot to each validly nominated candidate (hereinafter called contesting candidate) a symbol out of the approved list of symbols which shall be prescribed by the Director of Elections (Local Bodies), Himachal Pradesh by a notification.

10. List of nomination to be posted.—The Returning Officer shall, immediately after symbols have been allotted to each contesting candidate, prepare and publish by posting outside his camp office in alphabetical order in Hindi, in Devnagri script a list in Form IV showing against each contesting candidate the symbol allotted to him.

11. Procedure after publication of list of validly nominated candidates.—(1) If the number of contesting candidates is equal to the number of persons to be elected, the Returning Officer shall declare all such candidates duly elected.

(2) If the number of such candidates is less than the number of persons to be elected, the Returning Officer shall declare all such candidates duly elected and shall forward a list of the elected candidates to the Assistant Registrar and the Deputy Commissioner together with a report, specifying the number of unfilled seats. The Assistant Registrar shall then take action under rule 3 to fill up the remaining vacancies.

(3) If the number of such candidates exceeds the number of persons to be elected, an election shall be held by secret ballot. The votes of only such electors who bring with them a copy of the resolution of the society, duly attested by the President or the Chairman as the case may be, of that Society, authorising the elector to represent the Society shall be taken.

(4) Immediately after the polling is over, the Returning Officer shall count the votes in the presence of such candidates as may be present and declare the result in the following manner:—

- (a) The contesting candidate who is found to have obtained the largest number of valid votes, or if more than one is to be elected, the contesting candidates upto the number of persons to be elected who are found to have obtained the large number of valid votes, shall be declared to have been elected.
- (b) In the event of an election of two Members, each voter shall cast two votes. The names and symbols of all contesting candidates will appear on a ballot paper and the voter will put arrow cross mark against the names of two contesting candidates in whose favour he intends to vote.
- (c) In the event of a number of contesting candidates, polling the same number of votes, the Returning Officer shall draw lots in the presence of such candidates for the number of seats that remain to be filled and the candidate or candidates whose name or names is or are first drawn shall be declared to have been duly elected.

12. Preparation of record of proceedings and publication of result of election.—Immediately after the voting is over, the Returning Officer shall—

- (a) prepare in Form V a record of the proceedings of election and sign it, attesting with his initials every correction made therein, and also permit every contesting candidate, if he expresses his desire to do so, to affix his signatures or thumb-impression to such record, and
- (b) publish the election result by posting a copy of it at the office of the Panchayat Samiti and at such other conspicuous place as may be determined by the Returning Officer and shall at the same time send a copy to the Deputy Commissioner for publication in the Official Gazette and a copy to the Assistant Registrar for record.

13. Packing and preservation of election material.—(1) The Returning Officer shall then make up into separate packets the ballot papers and other papers relating to the election, seal up the packets and note thereon a description of the contents, the election to which they relate, and the date thereof.

(2) The packets shall be retained in safe custody in the office of the Deputy Commissioner concerned for a period of six months and shall then unless otherwise directed by the Government or the authority prescribed under the Act in this behalf, be destroyed.

PART III

MISCELLANEOUS

14. Procedure for filling casual vacancies.—When a vacancy occurs among the members of a Panchayat Samiti elected under these rules by death, resignation or removal of any member and a new member is to be elected in his place in accordance with the provisions of Section 70 of the Himachal Pradesh Panchayati Raj Act, 1968, such election shall be conducted in the manner as prescribed in these rules for a general election and the programme of election shall be framed as soon as may be convenient, after the occurrence of the vacancy.

15. Superintendence, control and direction.—These elections shall be conducted under the superintendence and control of the Director of Elections (Local Bodies), Himachal Pradesh. He shall issue such directions in this behalf as he may consider appropriate. In case there is any doubt or dispute regarding interpretation of these rules, the same shall be referred to the Director of Elections (Local Bodies), Himachal Pradesh and his decision shall be final.

16. Election petition.—The election of a Member of the Panchayat Samiti elected under these rules shall not be called in question before any authority or in any court except by way of an election petition under section 187 of the Act. The provisions for the presentation and disposal of the election petitions as contained in Part VII of the Himachal Pradesh Panchayat Samiti Election Rules, 1973, shall *mutatis mutandis* apply to the presentation and disposal of election petitions in relation to the elections conducted under these rules.

FORM I

[See sub-rule (1) of rule 3]

PROGRAMME FOR THE ELECTION OF TWO MEMBERS TO REPRESENT CO-OPERATIVE SOCIETIES WITHIN THE JURISDICTION OF PANCHAYAT SAMITI

1. Name of District.....
2. Name of Panchayat Samiti.....
3. Name of Returning Officer.....
4. Date, time and place for:—
 - (a) filing of nomination papers.....
 - (b) scrutiny of the nomination papers.....
 - (c) withdrawal of the nomination papers.....
 - (d) taking of poll, if necessary.....

Dated.....

Signature of the Assistant Registrar.

FORM II

[See sub-rule (1) of rule 4]

NOTICE TO THE CHAIRMAN/PRESIDENT OF CO-OPERATIVE SOCIETY

To

The Chairman/President
of the Primary Co-operative Society,

(here give full address of the Chairman/President of the Society)

You are hereby called upon under rule 3 (1) of the Himachal Pradesh Panchayat Samiti (Primary Member from Co-operative Societies) (Election) Rules, 1979 to convene, within twenty days from the date of this Notice, a meeting of the general body of the society for the authorisation of one of the society's member to represent it at the election to be held on..... as specified in the programme enclosed.

2. You should also send the name of the representative thus elected to the Assistant Registrar, on the day such election is held by the general body of the society.

3. The member should be directed to present himself before the Returning Officer, with a copy of the resolution of the Society, duly attested by you at the appointed date, time and place for the said election.

4. Please note that the members authorised by the society's resolution will only be permitted to participate in the election.

(Signature of the Assistant Registrar).

FORM III

[See sub-rule (2) of rule 5]

NOMINATION PAPER

- (1) Name of District.....
- (2) Name of Panchayat Samiti
- (3) (a) Name of candidate.....
- (b) Father's or husband's name.....
- (c) Address.....
- (d) Name of the society of which the candidate is a member.....
4. (a) Name of the proposer.....
- (b) Address of the proposer.....
- (c) Name of the society of which the proposer is a member.....
- (d) Signature of the proposer.....
- (5) (a) Name of the seconder.....
- (b) Address of the seconder.....
- (c) Name of the society of which the seconder is a member.....
- (d) Signature of the seconder.....

DECLARATION BY THE CANDIDATE

I, the above named candidate, give my consent to this nomination and hereby declare that I do not incur any of the disqualification mentioned in section 64 of the

Himachal Pradesh Panchayati Raj Act, 1968, and that I am qualified to be a candidate for election as a primary member of the Panchayat Samiti.

Date..... (Signature of the candidate).

Place.....

DECLARATION BY A CANDIDATE WHO IS A MEMBER OF A SCHEDULED CASTE OR SCHEDULED TRIBE

I, do hereby declare that I am a member of the.....caste/tribe, which has been declared to be Scheduled Caste/Scheduled Tribe in relation to the State.

Date..... (Signature of the candidate).

Verified:

Signature of the Member* of Parliament/
State Legislative Assembly/Magistrate/
Tehsildar.

ENDORSEMENT BY THE RETURNING OFFICER

Serial No.....

This nomination paper was presented to me by
(Name) at.....(Date and hour).

Date..... (Signature of the Returning Officer).

Place.....

ORDER OF THE RETURNING OFFICER

Accepted/Rejected
Reasons for rejection:

Date..... (Signature of the Returning Officer).

Place.....

FORM IV

(See rule 10)

LIST OF VALIDLY NOMINATED CANDIDATES FOR ELECTION

| Serial No. | Name and description of candidate | Symbol allotted | Remarks |
|------------|-----------------------------------|-----------------|---------|
| 1. | | | |
| 2. | | | |
| 3. | | | |
| 4. | | | |

(Signature of the Returning Officer).

FORM V

(See rule 12)

1. Name of District ..
2. Name of Panchayat Samiti ..
3. Date of publication of election programme ..
4. Nomination papers—
 - (1) Place, date & time of filing of nomination papers ..
 - (2) Number of nomination papers filed ..
 - (3) Place, date & time of scrutiny of nomination papers ..
 - (4) Number of nomination papers withdrawn ..
 - (5) Number of nomination papers rejected ..
 - (6) Number of nomination papers accepted ..
5. (1) Date, time and place of polling ..
- (2) Number of contesting candidates ..
6. No. of Members elected ..

| | |
|---------|-------------------------------|
| Sl. No. | Name of successful candidates |
|---------|-------------------------------|

(a) Women

(b) Scheduled Castes/Scheduled Tribes

(c) Others

Date:

(Signature of Returning Officer)

H. S. DUBEY,
Sachiv (Nirvachan).

